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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------|
| 10/729,137 | 12/05/2003 | Jack L. Kennedy | 6653-A-1 | 8965 |
| 7590 07/29/2005 | | | | |
| C. Robert von Hellens CAHILL, VON HELLENS & GLAZER P.L.C. Suite 155 2141 E. Highland Avenue Phoenix, AZ 85016 | | | EXAMINER LEE, GUNYOUNG T | |
| | | | ART UNIT 2875 | PAPER NUMBER |

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,137

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| Applicant(s) | |
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KENNEDY, JACK L.

Examiner

Gunyoung T. Lee

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans (US 4,845,859).
3. Evans shows a dryer system having:
 - A night light feature (col. 3, lines 40-43);
 - A base (Fig. 1, 12) for supporting a lamp (35) energized by a pair of prongs (50);
 - A light transmissive shield (Fig. 1, 14) (col. 3, lines 19-21);
 - A shelf (Fig. 1, 40) extending from the shield (14) and above the lamp (35);
 - Wherein, the shelf (Fig. 1, 40) is located below the upper edge of the shield (14);
 - A plurality of perforation (Fig. 1, 46) disposed in said shelf (40) to accommodate air flow therethrough from about the lamp area (bottom compartment, B) to the area above said shelf (top compartment, A) (col. 4, lines 8-12);
 - A lid (Fig. 1, 34) for closing said top compartment.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (US 4,845,859) as applied to claim 1 above, and further in view of Goodman (US 2,184,858).

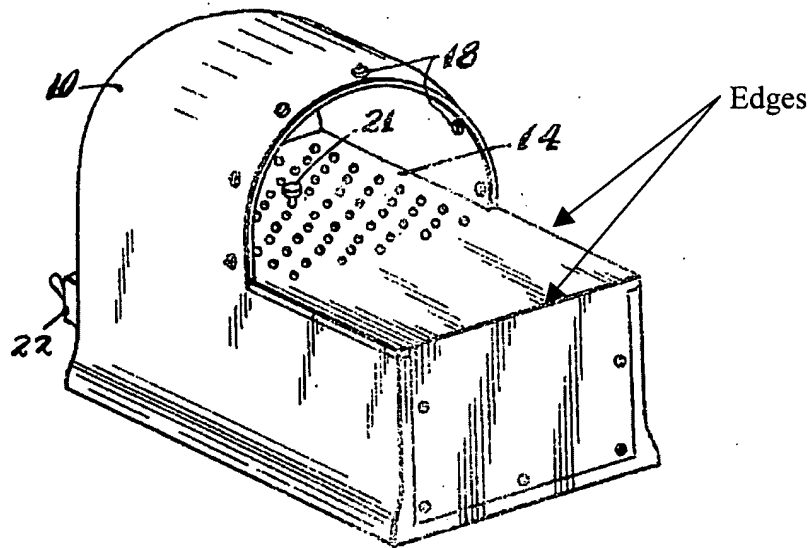
6. Evans shows the invention substantially as claimed except for:

- A shield including three sides and a shelf being in engagement with each of the three sides of the shield;
- A shelf including four edges and side walls from three of said four edges;
- A top secured to said side walls to define a housing;
- Wherein, said housing includes an open side.

7. In regards to the shield with three sides, the shelf with four edges, and the housing with an open side, Goodman discloses a dryer system having:

- A shield (Fig. 5, 10) including three sides and a shelf (14) being in engagement with each of the three side of the shield (10);
- A shelf (Fig. 5, 14) including four edges and side walls from three of said four edges;
- A top secured to said side walls to define a housing (Fig. 2);

- Wherein, said housing includes an open side (Fig. 2, 11).



Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to the housing with shield and shelf as shown in Goodman for the dryer system of Evans to provide an open side through which a device, such as a hearing aid, can be easily placed in and out from the dryer compartment. The open side will act as an outlet for air rising from the lower compartment and allow continuous airflow, which will enhance the drying process significantly.

8. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (US 4,845,859) as applied to claim 14 above, and further in view of Schumaier (US 5,640,783).

9. Evans shows the invention substantially as claimed except for a battery displaced in bottom compartment.

10. In regards to the battery, Schumaier discloses a hearing aid drying appliance having a battery (Fig. 1, 46) displaced in bottom compartment (20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the battery of Schumaier for the dryer system of Evans to make the device portable, so the dryer can be used in a place where the conventional power supply is not available.

11. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (US 4,845,859).

12. Evans is discussed in the rejection of claims 1 and 14. In regards to claims 18-20, claims 18-20 are drawn to a method corresponding to the apparatus of claims 1-3, 14 and 15 above. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to operate the dryer system of Evans to evaporate moisture within a hearing aid by selectively retaining the hearing aid within the housing for a fast drying process.

Allowable Subject Matter

13. Claims 11-13 are objected as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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14. Claims 11-13 are allowable over the prior art of record since the cited references taken individually or in combination fails to particularly disclose a dryer system which includes a housing having "a strap adapted to extend across an open side". It is noted that the closes prior art, Goodman (US 2,184,858) shows a similar apparatus having a housing with an open side (Fig. 2, 11). However, Goodman fails to disclose "a strap adapted to extend across" the open side.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tobias (US 6,625,900) shows a hearing aid drying device having: a night light bulb (Fig. 2, 18); a shield (10); a shelf (40) positioned above the light bulb (18); a plurality of perforation/apertures (Fig. 3, 42); and a lid (Fig. 2, 30). The heat from the night light bulb (Fig. 2, 18) rise and reaches the interior (36) of container (26) through the perforation/apertures (42) and remove the moisture in and around the hearing aid device (H) (col. 4, lines 19-26). Mattatall (US 4,379,988) shows a battery charger unit (Fig. 3) having a plurality of perforations (21) disposed on the bottom of a cup (12). Most of the input energy to the power supply unit of the device is dissipated as heat from electrical components (Fig. 4, 26, 28, 31). The heat from the bottom compartment will rise through the perforations (Fig. 4, 21) as shown by the wavy arrows (H) and will dry out moisture in and around the hearing aid placed in the cup (12) (col. 3, 54-68).

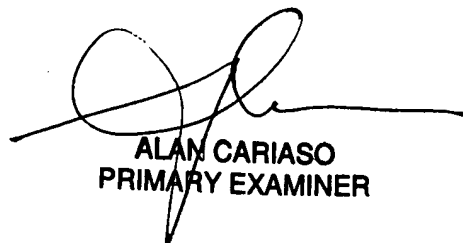
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gunyoung T. Lee whose telephone number is (571) 272-8588. The examiner can normally be reached on 7:30 - 4:00 PM.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GTL

7/25/2005



ALAN CARIASO
PRIMARY EXAMINER